

**Illinois Commerce Commission****Pipeline Safety****Pipeline Safety Report****Inspection #: 2015-P-00414**

Operator: MT. CARMEL PUBLIC UTILITY CO.	Operator ID#: 12858
Exit Meeting Contact: (Not Applicable)	Total Man Days: 0
Pipeline Safety Representative(s): Valerie Schwing	
Company Representative to Receive Report: Joseph Sellers	<b>Emailed Date:</b>
Company Representative's Email Address: jsellers@mtcpu.com	01/13/2016

**Inspection Summary**

Inspection Type	Location	ICC Analyst	Inspection Unit(s)	Man Day(s)	Inspection Date(s)	Contact(s)
Compliance Follow-Up	ICC Office	Valerie Schwing	MT. CARMEL PUBLIC UTILITY CO.	0	12/31/2015	

**Statement of Activities**

On January 7, 2016, Staff reviewed a revised Drug and Alcohol Misuse Prevention Plan (Drug and Alcohol Plan) provided by Mt. Carmel Public Utility Co., in response to the following Notices of Amendment ("NOA"): 2015-A001-00038 through 2015-A001-00074. The purpose of the review was to determine compliance with applicable IL Adm. Codes and the Code of Federal Regulations adopted via IL Adm. Part 590.

Based upon the information provided by Mt. Carmel Public Utility Co., Staff was able to close the NOAs listed above.

Staff also reviewed the documentation provided by Mt. Carmel Public Utility Co. in response to Notices of Probable Violation ("NOPV"): 2015-V001-00008 and 2015-V001-00009.

Based upon the information provided by Mt. Carmel Public Utility Co., Staff was able to close the NOPV 2015-V001-00009.

**Exit Statement****INSPECTION FINDINGS****Compliance Follow-Up****Issues(s) Found:**

[NO ISSUES FOUND]

**Notice Of Amendment(s) Found:**

[NO NOAS FOUND]

**Notice Of Violation(s) Found:**

[NO NOPVS FOUND]

**PAST INSPECTION FINDINGS****Issue(s) Corrected:**

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ICC cannot and will not certify nor conclude that an operator is in full compliance with rule requirements, even if the inspection does not identify any areas of non-compliance. Operators are wholly responsible for compliance with regulations.

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**[NO ISSUES CORRECTED]**

**Notice Of Amendment(s) Corrected:**

**2015-A001-00038** (Code Part [40.307(f)]) - The Drug and Alcohol Plan now correctly identifies the SAP as the person to establish the frequency of employee follow-up testing after a failed drug test in Appendix K Page 107.

**2015-A001-00039** (Code Part [40.67(b)]) - The Drug and Alcohol Plan has included a procedure that each return-to-duty test or follow-up test in relation to a test for drug use is performed under direct observation of a collector in Appendix Q Page 152.

**2015-A001-00040** (Code Part [199.243(a)]) - The Drug and Alcohol Plan does require Mt. Carmel to advise an employee who has engaged in conduct prohibited by §§199.215 through 199.223 of this subpart of the resources available to the covered employee in evaluating and resolving problems associated with the misuse of alcohol. This includes the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs in Appendix EE Page 188.

**2015-A001-00041** (Code Part [40.171(c)]) - The Drug and Alcohol Plan does require that the MRO documents the date and time of the employee's request to test the split specimen by using a second HHS-certified laboratory in Appendix GG Page 203.

**2015-A001-00042** (Code Part [40.15(d)]) - The Drug and Alcohol Plan does require that a service agent is not used to fulfill the function of a DER in Chapter 3.1(5) Page 12.

**2015-A001-00043** (Code Part [40.305(a)]) - The Drug and Alcohol Plan does identify a procedure for the employee to complete the SAP process as listed in CFR §40.305 and successfully complete a return-to-duty drug test before resuming performance of safety-sensitive duties in Chapter 4.1 Page 21 and Appendix K Page 106.

**2015-A001-00044** (Code Part [199.239(a)(2)]) - The Drug and Alcohol Plan does require written notice to representatives of employee organizations informing the group of the availability of educational materials explaining alcohol misuse requirements and the operator's policies and procedures with respect to meeting those requirements in Chapter 8.8 Page 41 and Appendix DD Page 185.

**2015-A001-00045** (Code Part [199.105(f)]) - The Drug and Alcohol Plan does require follow-up testing to be performed on an unannounced basis, at a frequency established by the MRO not the SAP, for a period of not more than 60 months. The Drug and Alcohol Plan does require that at least six tests must be conducted within the first 12 months following the covered employee's return to duty in Chapter 4.1 Page 21.

**2015-A001-00046** (Code Part [40.67(a)(b)&(d)]) - In the Drug and Alcohol Program, procedures are in place for direct observation with no advance notice to the employee, if the laboratory reported to the MRO that a specimen is invalid, and the MRO reported that there was not an adequate medical explanation for the result. In the Drug and Alcohol Program, procedures are in place if the MRO reported that the original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed; or the laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation in Appendix Q Page 152.

**2015-A001-00047** (Code Part [40.165(a)]) - The Drug and Alcohol Plan does require that all drug test results are reported to the DER, except when a C/TPA may act as an intermediary in Appendix M Page 133.

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**2015-A001-00048** (Code Part [199.223]) - The Drug and Alcohol Plan does require that an employee who refuses to submit to a required alcohol test (i.e. post-accident, reasonable suspicion, or a follow-up test) may not perform or continue to perform covered functions in Chapter 8.5 Page 40.

**2015-A001-00049** (Code Part [40.21(a)]) - The Drug and Alcohol Plan does state, standing down an employee before the MRO has completed the drug test verification process or that an approved waiver is granted per the requirements is prohibited. The plan does state the stand down process in Chapter 4.9 Pages 27-28.

**2015-A001-00050** (Code Part [40.33(b)]) - In the Drug and Alcohol Plan Urine specimen Collector positions does require that the program meets the applicable qualification requirements listed in CFR §40.33 in Appendix L Page 111.

**2015-A001-00051** (Code Part [40.25(a)]) - The Drug and Alcohol Plan does require Mt. Carmel to request written consent from a new employee to obtain said employee's previous drug and alcohol testing records. If the employee refuses to provide written consent then the Drug and Alcohol Plan does state the employee is not allowed to perform safety-sensitive functions in Chapter 4.6 Page 25 and Chapter 8.23 Pages 46-47.

**2015-A001-00052** (Code Part [199.1]) - The Drug and Alcohol Plan does list the covered positions that are required to be tested for the presence of prohibited drugs and alcohol in Appendix A Page 71.

**2015-A001-00053** (Code Part [40.167(a)]) - The Drug and Alcohol Plan does require that drug test results are reported to the employer in a confidential manner in Appendix M Page 133.

**2015-A001-00054** (Code Part [40.409(b)]) - The Drug and Alcohol Plan does address Public Interest Exclusions "(PIEs)". The Drug and Alcohol does state that if the employer uses a service agent concerning whom a PIE is issued, the employer must stop using the services of the service agent no later than 90 days after the Department has published the decision in the Federal Register or posted it on its web site in Chapter 8.6 Page 40.

**2015-A001-00055** (Code Part [40.111(a)]) - The Drug and Alcohol Plan does require that the laboratory transmits an aggregate statistical summary, by employer, of the data listed in Part 40, Appendix B to the employer on a semi-annual basis in Appendix Page 146.

**2015-A001-00056** (Code Part [40.281(c)]) - In the Drug and Alcohol Plan SAP positions do require that the program meets the applicable qualification requirements listed in CFR §40.281 in Appendix K Pages 100-101.

**2015-A001-00057** (Code Part [40.285(a)]) - The Drug and Alcohol Plan does require that a covered employee who engages in conduct prohibited by §§199.215 through 199.223 is not allowed to return to duty to perform any covered function until that employee completes a SAP evaluation, referral, and education/treatment process in Appendix K Page 102.

**2015-A001-00058** (Code Part [199.209(b)(2)]) - The Drug and Alcohol Plan does not require pre-employment alcohol tests in Chapter 9.1 Page 48.

**2015-A001-00059** (Code Part [40.23(a)]) - The Drug and Alcohol Plan does assure that until a positive drug test is confirmed, the employee will be removed from performing safety-sensitive functions. The Drug and Alcohol Plan does require that the employer must take this action upon receiving the initial report of the verified positive test result in Chapter 4.4 Page 23.

**2015-A001-00060** (Code Part [40.127]) - The Drug and Alcohol Plan does require that the MRO performs the review functions

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required by §40.127 for negative drug test results received from a laboratory, prior to verifying the result and releasing it to the DER in Appendix M Pages 116-117.

**2015-A001-00061** (Code Part [40.213]) - The Drug and Alcohol Plan does require Screening Test Technicians and Breath Alcohol Technicians must meet the training requirements listed in CFR §40.213 In Appendix U Pages 161-162.

**2015-A001-00062** (Code Part [40.123(b)]) - The Drug and Alcohol Plan requires that the MRO's responsibilities include providing quality assurance reviews of the drug testing process in Appendix M Pages 115-116.

**2015-A001-00063** (Code Part [199.209(b)(3)]) - The Drug and Alcohol Plan does not require pre-employment alcohol tests in Chapter 9.1 Page 48.

**2015-A001-00064** (Code Part [40.121(c)]) - In the Drug and Alcohol Plan MRO positions require that the program meets the applicable qualification requirements listed in §40.121 in Appendix M Page 114.

**2015-A001-00065** (Code Part [40.97(b)]) - The Drug and Alcohol Plan requires that laboratory results are reported directly, and only, to the MRO at his or her place of business in Appendix O Page 142.

**2015-A001-00066** (Code Part [199.101(a)(3)]) - The Substance Abuse Professional's name and address is identified and listed in the Drug and Alcohol Plan in Table 2.10.

**2015-A001-00067** (Code Part [40.13(a)]) - The Drug and Alcohol Plan does ensure that DOT drug and alcohol tests are completely separate from non-DOT tests in all respects in Chapter 8.7 Page 40.

**2015-A001-00068** (Code Part [199.209(b)(1)]) - The Drug and Alcohol Plan does not require pre-employment alcohol tests in Chapter 9.1 Page 48.

**2015-A001-00069** (Code Part [40.287]) - The Drug and Alcohol Plan does require a listing with names, addresses, and telephone numbers of SAPs will be readily available to each employee (including an applicant or new employee) who violates a DOT drug and alcohol regulations in Appendix K Page 102.

**2015-A001-00070** (Code Part [40.167(b)(c)]) - The Drug and Alcohol Plan does require the MRO or C/TPA who transmits drug test results to the employer to transmit to the DER on the same day the MRO verifies the result or the next business day all verified positive test results, results requiring an immediate collection under direct observation, adulterated or substituted specimen results, and other refusals to test. The Drug and Alcohol Plan does require as the MRO or C/TPA who transmits drug test results to the employer to transmit the MRO's report(s) of verified tests to the DER so that the DER receives them within two days of verification by the MRO in Appendix M Page 133.

**2015-A001-00071** (Code Part [40.99(a)(b)]) - The Drug and Alcohol Plan requires that laboratories testing the primary specimen retain a specimen that was reported with adulterated, substituted, or invalid results for a minimum of one year. The Drug and Alcohol Plan requires that the specimen must be kept in secure, long-term, frozen storage in accordance with HHS requirements in Appendix O Page 143.

**2015-A001-00072** (Code Part [40.307(a)]) - The Drug and Alcohol Plan states the SAP establishes a written follow-up testing plan for a covered employee that engages in conduct prohibited by §§199.215 through 199.223 and seeks to return to the performance of a covered function in Appendix K Page 106.

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**2015-A001-00073** (Code Part [40.153(d)]) - The Drug and Alcohol Plan requires that the split specimen must be tested regardless of payment. The Drug and Alcohol Plan does ensure that the test takes place, and that the employee is not required to pay for the test from his or her own funds before the test takes place. The Drug and Alcohol Plan requires the MRO to tell the employee that the employer may seek reimbursement for the cost of the test in Appendix GG Page 203.

**2015-A001-00074** (Code Part [199.239(b)(1-11)]) - The Drug and Alcohol plan does incorporate the U.S DOT Office of Drug and Alcohol Policy and Compliance. Therefore, the educational materials made available to covered employees does include detailed discussion of at least the following: The categories of employees who are subject to the provisions of this subpart. Sufficient information about the covered functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with this subpart. Specific information concerning covered employee conduct that is prohibited by this subpart. The circumstances under which a covered employee will be tested for alcohol under this subpart. The procedures that will be used to test for the presence of alcohol, protect the covered employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee. The requirement that a covered employee submit to alcohol tests administered in accordance with this subpart. An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences. The consequences for covered employees found to have violated the prohibitions under this subpart, including the requirement that the employee be removed immediately from covered functions, and the procedures under §199.243. The consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04. Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management. This information was found in Chapters 8.9, 8.10, 8.11 and Appendix DD.

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**Notice of Violations(s) Corrected:**

**2015-V001-00009** (Code Part [40.45(a)-(d)]) - Staff reviewed the Federal Drug Testing Custody and Control Form provided by Mt. Carmel Public Utility. The form is the correct form. Therefore, this NOPV can be closed.